

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RICHARD WALTERS,

Plaintiff,

v.

SCOTT FRAKES, as an individual;
NEBRASKA DEPARTMENT OF
CORRECTIONAL SERVICES, The; and
JOHN DOES 1-99,

Defendants.

4:17CV3099

ORDER

Pursuant to [Fed. R. Civ. P. 41\(a\)](#), all parties who have appeared in this action hereby stipulate to the dismissal of the plaintiff's claims brought against Scott Frakes as an individual (in his individual capacity). Specifically, the parties stipulate to the dismissal of the two counts in the plaintiff's Second Cause of Action brought under [42 U.S.C. § 1983](#): Count 1—Policy or custom of ignoring inmates' serious medical needs and Count 2—Failure to Train. The dismissal of these two counts is with prejudice and each party will bear its own costs. Each party in this case consents to this stipulation.

The parties have also stipulated that this case can be remanded to state court, as only state matters remain. Accordingly, the court will grant the motion to remand this case to state court.

THEREFORE, IT IS ORDERED THAT:

1. The parties' stipulation to voluntarily dismiss the claims against defendant, Scott Frakes as an individual, and to dismiss counts I and II of the plaintiff's second cause of action with prejudice, [Filing No. 21](#), is granted.

2. The motion for partial summary judgment, [Filing No. 16](#), is denied as moot.

3. This case is remanded to the Lancaster County District Court.

4. The parties shall bear their own costs.

5. The clerk's office is directed to mail a certified copy of this order of remand to the clerk of the Lancaster County District Court.

Dated this 7th day of March, 2018.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge